

### **REMARKS**

Claims 1-68 are pending in this application. Claims 1-68 stand rejected.

The following remarks put the pending claims in condition for allowance.

Applicants respectfully request reconsideration and the timely allowance of the pending claims.

#### **35 U.S.C. § 112, Second Paragraph, Rejection**

Claims 1-56, and 60 stand rejected under 35 U.S.C. 112, second paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Examiner has rejected claims 1, 31-33, 36, 41, and 56 based on the recitation of the term “can be”. These claims have now been amended in order to address this rejection.

Claim 2 is rejected for allegedly failing to further limit the device. The Examiner further contends that claim 2 is merely directed to an intended use. Applicants respectfully disagree. Claim 2 further limits claim 1 in that the device of claim 2 is adapted to adherence to the heart. As is explained throughout the specification, in particular page 12, line 26 through page 13, line 9, the housing of the claimed device is adaptable for adherence to various organs in order to maximize adherence of the device to the organ. The specification further provides the guidance that one of ordinary skill would need in order to practice this particular limitation of the invention. Given this teaching, one of ordinary skill in the art would recognize that the device of claim 2 is a

further limitation of the device of claim 1 in that it has been optimized to adhere to the heart in accordance with the teaching of the specification. As such, Applicants respectfully request that this rejection of claim 2 under 35 U.S.C. 112, second paragraph be withdrawn.

Claims 18 and 60 stand rejected for their recitation of the term “may be”. Claim 18 has been amended to correct this deficiency.

Claims 31-33 are rejected for allegedly failing to used “adapted to” language in order to avoid claiming a positive connection to the body and for allegedly failing to claim sufficient structure of the device to provide a complete device. Claims 31-33 have now been amended. Read in light of the specification, claims 31-33, as amended, clearly define the metes and bounds of the invention.

Claim 48 stands rejected for allegedly not positively claiming the holding mechanism. Claim 48 has now been amended in order to positively claim the holding mechanism.

Claims 52-56 stand rejected for the used of the phrase “ring-type”. The Examiner contends that this phrase renders the scope of these claims unascertainable. Applicants respectfully disagree. Read in light of the specification, claims 52-56 clearly define the metes and bounds of the invention. It would be apparent to one of ordinary skill in the art what the term “ring-type” encompasses, especially since the specification clearly exemplifies just such a connector. See, for example, Figure 56 which shows ring-type connector 70. Given such a teaching there is no question as to what this phrase encompasses. As such, Applicants respectfully request that this rejection under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 52-53, and 55 are rejected for the use of the term “capable of”. Claims 52-53, and 55 have been amended. Read in light of the specification, claims 52-53, and 55, as amended, clearly define the metes and bounds of the invention.

### **35 USC § 102 Rejections**

Claims 1, 3-6, 26-27, 31-32, 57-59, and 63 stand rejected under 35 U.S.C. 102(b) for allegedly being anticipated by Bogojavlensky. (WO 96/39989).

The Office Action states that Bogojavlensky teaches a device having a housing having a top surface, sides and a flange that is adapted to adhere to the body to form a seal with the body and thus anticipates claims 1, 3-6, 26-27, 31-32, 57-59, and 63.

Applicants respectfully disagree.

Claims 1, 3-6, 26-27, 31-32, 57-59, and 63, as amended, are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Bogojavlensky is directed to a device for alleviating female urinary incontinence. Bogojavlensky to not teach or suggest any devices for internal organ manipulation. Further, the device of Bogojavlensky does not have a portion of the housing that is adapted for adherence to any surface of an internal organ nor does Bogojavlensky teach or suggest methods of executing such a modification. Accordingly, the Applicants respectfully request that the rejection of claims 1, 3-6, 26-27, 31-32, 57-59, and 63 under 35 U.S.C. § 102(b) be withdrawn.

Claims 1, 3-4, 7, 10, 13, 26-27, and 30-32 stand rejected under 35 U.S.C. 102(b) for allegedly being anticipated by Argenta et al. (U.S. Patent No. 5,636,643).

The Office Action states that Argenta et al. disclose a device having a housing having a top surface and sides that is adapted to adhere to the body to form a seal with the body and as such anticipates the claimed invention. Applicants respectfully disagree.

Claims 1, 3-4, 7, 10, 13, 26-27, and 30-32, as amended, are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Argenta et al. is directed to a device and method for treating wounds and tissue damage. Argenta et al. to not teach or suggest any devices for internal organ manipulation. Further, the device of Argenta et al. does not have a portion of the housing that is adapted for adherence to any surface of an internal organ nor does Argenta et al. teach or suggest methods of making such an adaptation. Accordingly, the Applicants respectfully request that the rejection of claims 1, 3-4, 7, 10, 13, 26-27, and 30-32 under 35 U.S.C. § 102(b) be withdrawn.

Claims 1-19, 26-29, 31-33, 36-52, and 57-68 stand rejected under 35 U.S.C. 102(e) for allegedly being anticipated by Spence et al. (U.S. Application No. 2001/0041827).

The Examiner has not provided specific reasoning as to why this reference anticipates claims 1-19, 26-29, 31-33, 36-52, and 57-68.

Claims 1-19, 26-29, 31-33, 36-52, and 57-68 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Spence et al. is generally directed to a device and method stabilizing a heart during surgery using a suction cup. Spence et al. simply do not teach or suggest the device of claims 1-19, 26-

29, 31-33, 36-52, and 57-68. Further, the device of Spence et al. does not have a portion of the housing that is adapted for adherence to any surface of any internal organ nor does Spence et al. teach or suggest methods of making such an adaptation. Accordingly, the Applicants respectfully request that the rejection of claims 1-19, 26-29, 31-33, 36-52, and 57-68 under 35 U.S.C. § 102(e) be withdrawn.

Claims 1-7, 9-21, 26-29, and 31-68 stand rejected under 35 U.S.C. 102(a) for allegedly being anticipated by WO 0117437.

The Examiner has not provided specific reasoning as to why this reference anticipates claims 1-7, 9-21, 26-29, and 31-68.

Claims 1-7, 9-21, 26-29, and 31-68 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, WO 0117437 is directed to a device for manipulating an organ using a suction cup. WO 0117437 does not teach or suggest the device of claims 1-7, 9-21, 26-29, and 31-68. Accordingly, the Applicants respectfully request that the rejection of claims 1-7, 9-21, 26-29, and 31-68 under 35 U.S.C. § 102(a) be withdrawn.

Claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52 stand rejected under 35 U.S.C. 102(b) for allegedly being anticipated by EP 0919193.

The Examiner has not provided specific reasoning as to why this reference anticipates claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52.

Claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, EP 0919193 is

directed to a device for stabilizing moving tissue having a tube with a lumen connect to a foot placed adjacent to the moving tissue. Thus, EP 0919193 does not teach or suggest the device of claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52. Accordingly, the Applicants respectfully request that the rejection of claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52 under 35 U.S.C. § 102(b) be withdrawn.

### **35 U.S.C. § 103(a) Rejections**

Claims 28-29, and 42-47 stand rejected under 35 U.S.C. 103(a) for allegedly being obvious over Bogojavlensky.

The Office Action states that Bogojavlensky does not specifically disclose the claimed angles or ranges of height, width, thickness, etc. of the claimed device, those ranges would have been obvious to one of ordinary skill in the art.

Claims 28-29, and 42-47 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Bogojavlensky is directed to a device for alleviating female urinary incontinence. Bogojavlensky to not teach or suggest any devices for internal organ manipulation. As such, Bogojavlensky does not make the invention of claims 28-29, and 42-47 obvious. Because the reference does not teach or suggest every element of the claimed invention, the Applicants respectfully request that the rejection of claims 1, 3-6, 26-27, 31-32, 57-59, and 63 under 35 U.S.C. § 103(a) be withdrawn.

Claims 8-9, 28-29, and 42-47 stand rejected under 35 U.S.C. 103(a) for allegedly being obvious over Argenta et al.

The Examiner contends that Argenta et al. disclose a device having a housing having a top surface and sides that is adapted to adhere to the body to form a seal with the body and as such anticipates the claimed invention. Applicants respectfully disagree.

Claims 8-9, 28-29, and 42-47 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Argenta et al. is directed to a device and method for treating wounds and tissue damage. Argenta et al. do not teach or suggest any devices for internal organ manipulation. Further, the device of Argenta et al. does not have a portion of the housing that is adapted for adherence to any surface of an internal organ nor does Argenta et al. teach or suggest methods of making such an adaptation. The Examiner's contention that one of ordinary skill in the art would may optimize working ranges does not cure these deficiencies as Argenta et al. does not teach or suggest in any fashion the device of claims 8-9, 28-29, and 42-47. Accordingly, the Applicants respectfully request that the rejection of claims 8-9, 28-29, and 42-47 under 35 U.S.C. § 103(a) be withdrawn.

### CONCLUSION

As all of the outstanding rejections have been addressed and all of the claims are believed to be in condition for allowance, the Applicants respectfully request a Notice of Allowability. The Examiner is invited to contact the undersigned representative should any further issues arise.

Respectfully submitted,

DECHERT LLP

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John W. Ryan

John W. Ryan  
Reg. No. 33,771

Thomas M. Haas  
Reg. No. 50,210

Dechert LLP  
1775 Eye Street, N.W.  
Washington, D.C. 20006  
Telephone (202) 261-3375  
Fax (202) 261-3333